



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Milwaukee County Department of Human Services, Petitioner

vs.

DECISION

██████████ Respondent

Case #: FOF - 174107

PRELIMINARY RECITALS

Pursuant to petition filed May 5, 2016, under Wis. Admin. Code § HA 3.03 (February 2013), and 7 C.F.R. § 273.16 (2014), to review a decision by the Milwaukee County Department of Human Services ["County"] to disqualify ██████████ from receiving FoodShare benefits ["FS"] for a period of one year, a Hearing was held via telephone from Madison, Wisconsin on Monday, June 13, 2016 at 10:45 AM.

The issue for determination is whether Respondent committed an Intentional Program Violation ["IPV"].

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

BY: ██████████ Income Maintenance ["IM"] Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, Wisconsin 53205

Respondent:

██████████
██████████
████████████████████

[Petitioner did not appear for the June 13, 2016 Hearing]

ADMINISTRATIVE LAW JUDGE:
Sean Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Respondent (CARES # [REDACTED]) is a resident of Wisconsin who received FS benefits in Wisconsin in May 2012.
2. Division of Hearings and Appeal ["DHA"] records show that on May 5, 2016 the County notified DHA that Respondent's address was: [REDACTED]. There does not appear to be any such place as "[REDACTED]"; the zip code [REDACTED] appears to be for a [REDACTED].
3. On May 13, 2016, the petitioner prepared an *Administrative Disqualification Hearing Notice* alleging that Respondent intentionally transferred FS benefits in the total amount of \$160 in exchange for cash payment; that notice was mailed to petitioner at the following address: [REDACTED]. The County representative at the June 13, 2016 Hearing testified that "to the best of my knowledge" the [REDACTED] address was Respondent's current address -- but no explanation was provided for the [REDACTED] address provided by the County to DHA on May 5, 2016.
4. Respondent failed to appear for the scheduled June 13, 2016 IPV Hearing.

DISCUSSION

An IPV Hearing cannot be held unless the agency first provides written notice to the individual suspected of committing the IPV at least 30 days in advance of the date of the IPV Hearing. 7 C.F.R. § 273.16(e)(3)(1). It is not clear if that was done in this case due to the confusion surrounding Respondent's address.

If the County still seeks to impose an IPV sanction on petitioner it must notice a new Hearing and provide proper written advance notice to Respondent. The next IPV Hearing, if any, should be set-up as a telephone Hearing for Respondent given Respondent's apparent distance from Milwaukee, Wisconsin.

CONCLUSIONS OF LAW

For the reason discussed above, the IPV in this matter cannot be sustained at this time.

NOW, THEREFORE, it is

ORDERED

That the IPV in this matter is not sustained at this time and the County may not impose an IPV 1 year period of FS ineligibility at this time. If the County still seeks to impose an IPV sanction on petitioner it must notice a new

Hearing and provide proper written advance notice to Respondent. The next IPV Hearing, if any, should be set-up as a telephone Hearing for Respondent given Respondent's apparent distance from Milwaukee, Wisconsin.

REQUEST FOR A REHEARING ON GROUNDS OF GOOD CAUSE FOR FAILURE TO APPEAR

In instances where the good cause for failure to appear is based upon a showing of non-receipt of the hearing notice, the respondent has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. See 7 C.F.R. sec. 273.16(e)(4). Such a claim should be made in writing to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875.

APPEAL TO COURT

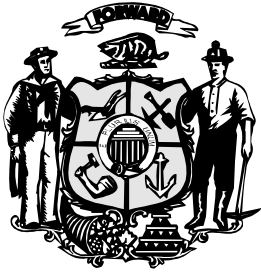
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, WI 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing request (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 27th day of June, 2016

\sSean Maloney
Administrative Law Judge
Division of Hearings and Appeals

c: Miles - email
Public Assistance Collection Unit - email
Division of Health Care Access and Accountability - email
[REDACTED] - email
Respondent at: [REDACTED] [REDACTED]



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 27, 2016.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability
[REDACTED]